

**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that: My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed at 201) below or an original, first and joint inventor (if plural names are listed at 201-208 below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**SYSTEMS AND METHODS FOR SPINAL FIXATION**

which is described and claimed in:

the specification attached hereto.

the specification in U.S. Application Serial Number 09/536,732, filed on March 28, 2000.

the specification in PCT international application Number \_\_\_\_\_, filed on \_\_\_\_\_, and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a). I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

**Prior Foreign/PCT Applications and Any Priority Claims Under 35 U.S.C. §119:**

Application No.	Filing Date	Country	Priority Claim d Under 35 U.S.C. §119?
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 CFR §1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

**Prior U.S. Applications or PCT International Applications Designating the U.S. Benefit  
Under 35 U.S.C. §120**

<b>U.S. Applications</b>		<b>Status (Check One)</b>		
<b>Application Serial No.</b>	<b>U.S. Filing Date</b>	<b>Patented</b>	<b>Pending</b>	<b>Abandoned</b>
<b>PCT Applications Designating the U.S.</b>				
<b>Application No.</b>	<b>Filing Date</b>	<b>U.S. Serial No. Assigned</b>		

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(35 U.S.C. §119(e))**

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below:

<b>Applicant</b>	<b>Provisional Application Number</b>	<b>Filing Date</b>
Carl et al.	60/133,356	May 10, 1999

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) with full powers of association, substitution and revocation to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Sewall P. Bronstein (Reg. No. 16,919)  
Peter J. Manus (Reg. No. 26,766)  
George W. Neuner (Reg. No. 26,964)  
David G. Conlin (Reg. No. 27,026)  
Peter F. Corless (Reg. No. 33,860)  
Linda M. Buckley (Reg. No. 31,003)  
Lisa Swiszcz Hazzard (Reg. No. 44,368)

William J. Daley, Jr. (Reg. No. 35,487)  
Cara Z. Lowen (Reg. No. 38,227)  
David Tucker (Reg. No. 27,840)  
Robert L. Buchanan (Reg. No. 40,927)  
Christine O'Day (Reg. No. 38,256)  
George Hartnell (Reg. No. 42,639)  
Jennifer K. Holmes (Reg. No. P-46,776)  
Kerri Pollard Schray (Reg. No. P-47,066)

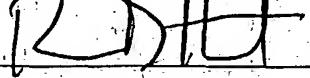
SEND CORRESPONDENCE TO:		DIRECT TELEPHONE CALLS TO:	
William J. Daley, Jr., Esq. Dike, Bronstein, Roberts & Cushman Intellectual Property Practice Group EDWARDS & ANGELL, LLP 130 Water Street Boston, Massachusetts 02109		William J. Daley, Jr., Esq. (617) 523-3400	

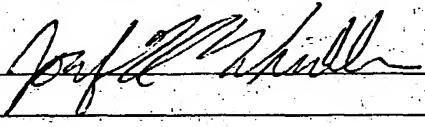
2 0 1	FULL NAME OF INVENTOR <b>Carl</b>	LAST NAME <b>Carl</b>	FIRST NAME <b>Allen</b>	MIDDLE NAME
2 0 1	RESIDENCE & CITIZENSHIP <b>Slingerlands</b>	CITY <b>Slingerlands</b>	STATE OR FOREIGN COUNTRY <b>New York</b>	COUNTRY OF CITIZENSHIP <b>U.S.</b>
	POST OFFICE ADDRESS <b>308 Highgate Drive</b>	POST OFFICE ADDRESS <b>308 Highgate Drive</b>	CITY <b>Slingerlands</b>	STATE OR COUNTRY AND ZIP CODE <b>New York 12159</b>

2 0 2	FULL NAME OF INVENTOR <b>Hart</b>	LAST NAME <b>Hart</b>	FIRST NAME <b>Ricky</b>	MIDDLE NAME <b>D.</b>
2 0 2	RESIDENCE & CITIZENSHIP <b>Plainville</b>	CITY <b>Plainville</b>	STATE OR FOREIGN COUNTRY <b>Massachusetts</b>	COUNTRY OF CITIZENSHIP <b>U.S.</b>
	POST OFFICE ADDRESS <b>11 Hillside Road</b>	POST OFFICE ADDRESS <b>11 Hillside Road</b>	CITY <b>Plainville</b>	STATE OR COUNTRY AND ZIP CODE <b>Massachusetts 02762</b>

2 0 3	FULL NAME OF INVENTOR <b>Winkler</b>	LAST NAME <b>Winkler</b>	FIRST NAME <b>Josef</b>	MIDDLE NAME <b>K.</b>
2 0 3	RESIDENCE & CITIZENSHIP <b>Reading</b>	CITY <b>Reading</b>	STATE OR FOREIGN COUNTRY <b>Pennsylvania</b>	COUNTRY OF CITIZENSHIP <b>U.S.</b>
	POST OFFICE ADDRESS <b>2318 Gring Drive</b>	POST OFFICE ADDRESS <b>2318 Gring Drive</b>	CITY <b>Reading</b>	STATE OR COUNTRY AND ZIP CODE <b>Pennsylvania 19609</b>

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature of Inventor 201	Signature of Inventor 202
	
Date:	Date:

Signature of Inventor 203	
	
Date:	

135948

Practitioner's Docket No. 49,386 (1995)

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: A. Carl et al.  
 Application No.: 09/536,732  
 Filed on: March 28, 2000

Patentee \_\_\_\_\_  
 Patent No.: \_\_\_\_\_  
 Issued on: \_\_\_\_\_

Title: SYSTEMS AND METHODS FOR SPINAL FIXATION

**STATEMENT CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27(b)—SMALL BUSINESS CONCERN)**

I hereby state that I am

the owner of the small business concern identified below:  
 an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Small Business Concern Highgate Orthopedics, Inc.Address of Small Business Concern One Walnut Street, Boston, MA 02108

I hereby state that the above identified small business concern qualifies as a small business concern, as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby state that rights under contract or law have been conveyed to, and remain with, the small business concern identified above, with regard to the invention described in

the specification filed herewith, with title as listed above.  
 the application identified above.  
 the patent identified above.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c), if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

(Small Entity-Small Business -page 1 of 3)

**NOTE:** Separate statements are required from each named person, concern or organization having rights in the invention as to their status as small entities. (37 CFR 1.27)

Each such person, concern or organization having any rights in the invention is listed below

No such person, concern, or organization exists.  
 Each such person, concern or organization is listed below.

**FULL NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

INDIVIDUAL  SMALL BUSINESS CONCERN  NONPROFIT ORGANIZATION

**FULL NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

INDIVIDUAL  SMALL BUSINESS CONCERN  NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small business entity is no longer appropriate. (37 CFR 1.28(b))

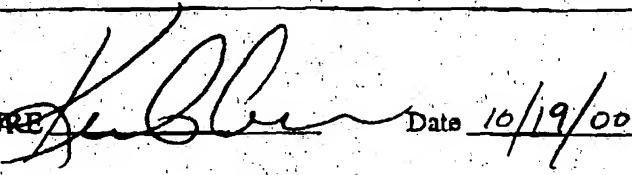
(check the following item, if desired)

**NOTE:** The following verification statement need not be made in accordance with the rules published on October 10, 1997, 62 Fed. Reg. 52131, effective December 1, 1997.

**NOTE:** "The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any paper by a party, whether a practitioner or non-practitioner, constitutes a certification under § 10.18(b) of this chapter. Violations of § 10.18(b)(2) of this chapter by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under § 10.18(c) of this chapter. Any practitioner violating § 10.18(b) may also be subject to disciplinary action. See §§ 10.18(d) and 10.23(c)(15)." 37 C.F.R. § 1.4(d)(1).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing KEVIN G. CONNOES  
Title of Person if Other Than Owner PRESIDENT  
Address of Person Signing ONE WALNUT STREET, BOSTON, MA 02108

SIGNATURE 

Date 10/19/00

141983

6/10/04  
49386  
(1995)



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

DECEMBER 27, 2000

PTAS

DIKE, BRONSTEIN, ROBERTS ET AL  
WILLIAM J. DALEY, JR.  
INTELLECTUAL PROPERTY PRACTICE GROUP  
130 WATER STREET  
BOSTON, MA 02109



\*101503769A\*

RECEIVED

JAN 08 2001

DIKE BRONSTEIN  
ROBERTS CUSHMAN

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/23/2000

REEL/FRAME: 011189/0565

NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

CARL, ALLEN

DOC DATE: 09/16/2000

ASSIGNOR:

HART, RICKY D.

DOC DATE: 08/29/2000

ASSIGNOR:

WINKLER, JOSEF K.

DOC DATE: 09/07/2000

ASSIGNEE:

HIGHGATE ORTHOPEDICS, INC.  
ONE WALNUT STREET  
BOSTON, MASSACHUSETTS 02108

SERIAL NUMBER: 09536732

FILING DATE: 03/28/2000

PATENT NUMBER:

ISSUE DATE:

MARY BENTON, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

101503769

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): 10-23-00

Allen Carl  
Ricky D. Hart  
Josef K. Winkler

Additional names(s) of conveying party(ies)  Yes  No

3. Nature of conveyance:

Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_

Execution Date: 8/29/00; 9/7/00; 9/16/00

2. Name and address of receiving party(ies):

Name: Highgate Orthopedics, Inc.

Address: One Walnut Street

23

City: Boston State/Prov.: MA

Country: USA ZIP: 02108

Additional name(s) & address(es)  Yes  No

4. Application number(s) or registration numbers(s):

If this document is being filed together with a new application, the execution date of the application is:

Patent Application No. 09/536,732 Filing date

March 28, 2000

B. Patent No.(s)

Additional numbers  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: William J. Daley, Jr.

Registration No. 35,487

Address: Dike, Bronstein, Roberts & Cushman,

Intellectual Property Practice Group,

EDWARDS & ANGELL, LLP, 130 Water Street

City: Boston State/Prov.: MA

Country: USA ZIP: 02109

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): ..... \$ 40.00

Enclosed - Any excess or insufficiency should be credited or debited to deposit account

Authorized to be charged to deposit account

8. Deposit account number:

04-1105

1/02/2000 GT0111 00000071 09536732

DO NOT USE THIS SPACE

FC:581 40.00 0P  
3. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

William J. Daley, Jr.

William J. Daley, Jr.

Name of Person Signing

Signature

October 19, 2000

Total number of pages including cover sheet, attachments, and

3

Date

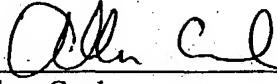
**ASSIGNMENT**

We, Allen Carl, Ricky D. Hart, and Josef K. Winkler, for good and valuable consideration from Highgate Orthopedics, Inc., a Delaware corporation, having its principal place of business at One Walnut Street, Boston, Massachusetts 02108, hereinafter called the Assignee, receipt of which is hereby acknowledged, do hereby sell, assign and transfer unto the Assignee, its successors and assigns, the entire right, title and interest in, to and under an application for Letters Patent of the United States, entitled SYSTEMS AND METHODS FOR SPINAL FIXATION and under an application for Letters Patent, having a Serial Number of 09/536,732 and a filing date of March 28, 2000, including all priority rights ensuing therefrom, and the inventions and any of them therein set forth and described, and any and all Letters Patent of the United States and of countries foreign thereto which may be granted thereon or therefor, together with the right to apply for such Letters Patent.

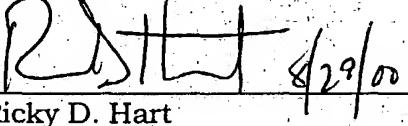
And for the above consideration, we agree promptly upon request of the Assignee, its successors or assigns, to execute and deliver without further compensation any power of attorney, assignment, application, whether original, divisional, continuation or reissue, or other papers which may be necessary or desirable fully to secure to the Assignee, its successors and assigns, the inventions and any of the them described in said application and all patent rights therein, in the United States and in any country foreign thereto.

The undersigned Assignor also hereby grants the law firm of Dike, Bronstein, Roberts & Cushman, LLP the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office including the Serial Number for the above-referenced patent application for Letters Patent of the United States.

**IN WITNESS WHEREOF**, I, Allen Carl, hereunto set my hand and seal this 16<sup>th</sup> day of September, 2000, I, Ricky D. Hart, hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000, and I, Josef K. Winkler, hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

  
Allen Carl

 9/2/00  
Josef K. Winkler

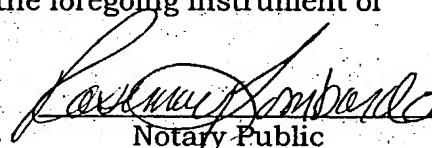
 8/29/00  
Ricky D. Hart

**ASSIGNMENT (Cont.)**

New York  
Commonwealth of Massachusetts  
County of Albany ss.

Before me this 10th day of September 2000, personally appeared Allen Carl, who is to me personally known, and acknowledged the foregoing instrument of assignment to be his free act and deed.

ROSEMARY LOMBARDO  
Notary Public, State of New York  
Rensselaer County  
Reg. No. 01L04887453  
My Commission Expires 5-16-01

  
Rosemary Lombardo  
Notary Public

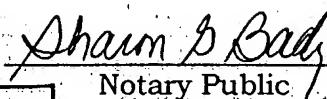
Commonwealth of Massachusetts  
County of Bucks ss.

Before me this 1st day of September, personally appeared Ricky D. Hart, who is to me personally known, and acknowledged the foregoing instrument of assignment to be his free act and deed.

  
Ricky D. Hart  
Notary Public

Pennsylvania  
Commonwealth of Massachusetts  
County of Bucks ss.

Before me this 8th day of September, personally appeared Josef K. Winkler, who is to me personally known, and acknowledged the foregoing instrument of assignment to be his free act and deed.

  
Josef K. Winkler  
Notary Public

141978

